

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY.'S DOCKET: MANDELBOIM=2

In re Application of:) Confirmation No.:1715
)
Ofer MANDELBOIM et al) Art Unit: 1643
)
Appln. No.: 10/580,428) Examiner: Meera NATARUAJAN
PCT/IL04/01081)
)
Filing Date: November 24, 2004) July 1, 2008
371(c) Date: March 15, 2007)
)
For: PEPTIDES DERIVED FROM)
NATURAL CYTOTOXICITY)
RECEPTORS AND METHODS OF)
USE THEREOF)

REPLY TO RESTRICTION AND ELECTION REQUIREMENTS

Honorable Commissioner for Patents
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Amendment
Randolph Building, 401 Dulany Street
Alexandria, VA 22314

Sir:

Applicants' are in receipt of the Office Action
mailed April 1, 2008, and applicants reply below. Attached is
a petition for two (2) months' extension of time and the
petition fee.

Restriction has first been required among what the
PTO deems as being four (4) separate inventions. As
applicants must make an election even though the requirement
is traversed, applicants hereby respectfully and provisionally

elect Group I, presently claims 1-10, 12 and 15-19, without prejudice and with traverse.

The position of the PTO is that unity of invention is destroyed by the citation mentioned in the bottom paragraph on page 2 of the Official Action. Applicants on the other hand, respectfully maintain and submit that such citation relates to the background of the present invention, i.e. does not show all of the details of the present invention which extend throughout the four (4) groups, and therefore the citation does not destroy unity of invention. In other words, there is a single general inventive concept under PCT Rule 13.1 because all four (4) groups possess the same and corresponding special technical features as required by PCT Rule 13.2.

Moreover, even if the examiner were correct that the citation anticipates claim 1, which applicants do not accept, there still would be unity of invention with respect to narrower subject matter extending through all four (4) groups.

Withdrawal of the requirement is therefore respectfully requested.

In addition to the restriction requirement, the PTO has also imposed a requirement for an election of species to

which applicants must respond, even if they traverse the requirement. Accordingly, applicants hereby respectfully and provisionally elect NKp46 with traverse and without prejudice. The claims which read on the elected species, including generic claims, are claims 1-6, 9, 10, 12, 15-17, 23, 24, 27, 31-33 and 39.

Applicants do not deny that the species may indeed be patentably distinct from one another. Nevertheless, the requirement is traversed because the generic claims by definition set forth a single general inventive concept under PCT Rule 13.1, because under PCT Rule 13.2 the generic claims recite the same subject matter of all species. Accordingly, applicants respectfully request that the requirement be withdrawn.

If the requirement is maintained, applicants will understand that the PTO will have ruled that otherwise identical claims, except for specifying the different species, e.g. claims 6-8, are patentably distinct from one another, meaning that if a reference were to be found anticipating for example claim 35, than claims 33 and 34 would be deemed patentably distinct therefrom i.e. *prima facie* non-obvious therefrom.

Applicants therefore respectfully request withdrawal of the election of species requirement.

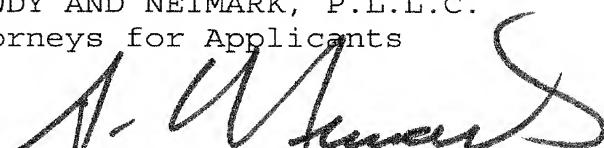
Appl. No. 10/580,428
Reply dated July 1, 2008
Reply to Office Action of April 1, 2008

Applicants now respectfully await the results of a first examination on the merits.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicants

By



Sheridan Neimark

Registration No. 20,520

SN:jnj

Telephone No.: (202) 628-5197
Facsimile No.: (202) 737-3528
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